



WHY WE ARE HERE

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CONTENTS

- History of Rules
- NDCC 61-28-04.1
- Violations





HISTORY OF THE RULES



NORTH DAKOTA
DEPARTMENT *of* HEALTH

SYNTAX

- 40 CFR Part 503
 - CFR=Code of Federal Regulations
- NDCC 61-28-04.1
 - NDCC=North Dakota Century Code
 - NDCC is the collection of all statutes passed by the North Dakota Legislative Assembly
 - LAW
- NDAC 33-21-02
 - NDAC=North Dakota Administrative Code
 - NDAC is published by the Legislative Council; codification of all rules of state administrative agencies
 - RULES
- Example:
 - NDAC Title-Chapter-Section(Subsection)



SEPARATION

- Greywater vs. Blackwater
- Greywater: wastewater from baths, bathroom sinks, and washing machines that does not contain body or food wastes. Greywater can be recycled especially for using in gardening or flushing toilets.
- Blackwater: wastewater containing bodily or other biological wastes, as from toilets, dishwashers, or kitchen drains.
- North Dakota does not distinguish between the two.
 - Greywater=Domestic Septage
 - Blackwater=Domestic Septage
 - Greywater+Blackwater=Domestic Septage



U.S. EPA

- Both state and federal regulation govern septage disposal.
- Federal regulations set minimum standards.
- Federal regulations applicable to domestic septage found in:
 - **40 CFR Part 503, “Standards for the Use or Disposal of Sewage Sludge”**
 - Published in the Federal Register on February 19, 1993
- 40 CFR Part 503 is self implementing



40 CFR PART 503

- Defines domestic septage as, “*either liquid or solid material removed from a septic tank, cesspool, portable toilet, Type III marine sanitation device, or similar treatment works that receives only domestic sewage.*”
- Simplifies requirements for land application of domestic septage to nonpublic contact sites.
 - Nonpublic contact sites include agricultural land, forest land, and reclamation sites that the public uses infrequently.



40 CFR PART 503

- Simplified requirements include:
 - Establish a simplified method of determining septage application rates to the land based on nitrogen loading.
 - Define site restrictions depending on whether or not the septage is stabilized by the addition of lime or other alkaline material prior to application.
 - Establish alternatives to reduce vector attraction.
 - Establish requirements for record keeping, reporting and certification.
 - Prohibit the application of domestic septage to saturated or frozen soil where potential exists for contamination of surface water or to land within 10 m (33 feet) of wetlands, streams, rivers or lakes.



STATE OF NORTH DAKOTA

- Original Septic Pumper Rules NDAC 33-21-01
 - Passed in the 1950's
- Authority was held in NDCC 23-19
- SB 2308 in 2013 Legislative Session
 - Changed authority to NDCC 61-28-04.1
 - Repealed NDAC 33-21-01
 - Enacted NDAC 33-21-02
 - Effective January 1, 2014
- HB 1160 in 2017 Legislative Session



HB 1160 IN 2017 LEGISLATIVE SESSION

17.0569.01000

Sixty-fifth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1160

Introduced by

Representatives Brandenburg, Grueneich, Jones, Magrum, Satrom

Senators Bekkedahl, Erbele

- 1 A BILL for an Act to amend and reenact subsection 1 of section 61-28-04.1 of the North Dakota
- 2 Century Code, relating to exempting plumbers from permit requirements for persons who
- 3 service septic systems.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

- 5 **SECTION 1. AMENDMENT.** Subsection 1 of section 61-28-04.1 of the North Dakota
- 6 Century Code is amended and reenacted as follows:

- 7 1. A person other than a plumber licensed under chapter 43-18 engaging in the business
- 8 of servicing septic systems must have a permit issued by the department and must
- 9 comply with the conditions imposed by the permit.

HB 1160 IN 2017 LEGISLATIVE SESSION

17.0569.01001

Sixty-fifth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1160

Introduced by

Representatives Brandenburg, Grueneich, Jones, Magrum, Satrom

Senators Bekkedahl, Erbele

1 A BILL for an Act to amend and reenact subdivision d of subsection ~~42~~ of section 61-28-04.1 of
2 the North Dakota Century Code, relating to exempting plumbers from permit fee requirements
3 for persons who service septic systems.

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9 ~~comply with the conditions imposed by the permit.~~

10 **SECTION 1. AMENDMENT.** Subdivision d of subsection 2 of section 61-28-04.1 of the
11 North Dakota Century Code is amended and reenacted as follows:

12 d. To establish reasonable fees for permitting septic system servicers, however the
13 department may not establish or charge a permit or renewal fee for a plumber
14 licensed under chapter 43-18 who operates no more than one servicing unit;

HB 1160 IN 2017 LEGISLATIVE SESSION

Sixty-fifth Legislative Assembly of North Dakota In Regular Session Commencing Tuesday, January 3, 2017

HOUSE BILL NO. 1160
(Representatives Brandenburg, Grueneich, Jones, Magrum, Satrom)
(Senators Bekkedahl, Erbele)

AN ACT to amend and reenact subdivision d of subsection 2 of section 61-28-04.1 of the North Dakota Century Code, relating to exempting plumbers from permit fee requirements for persons who service septic systems.

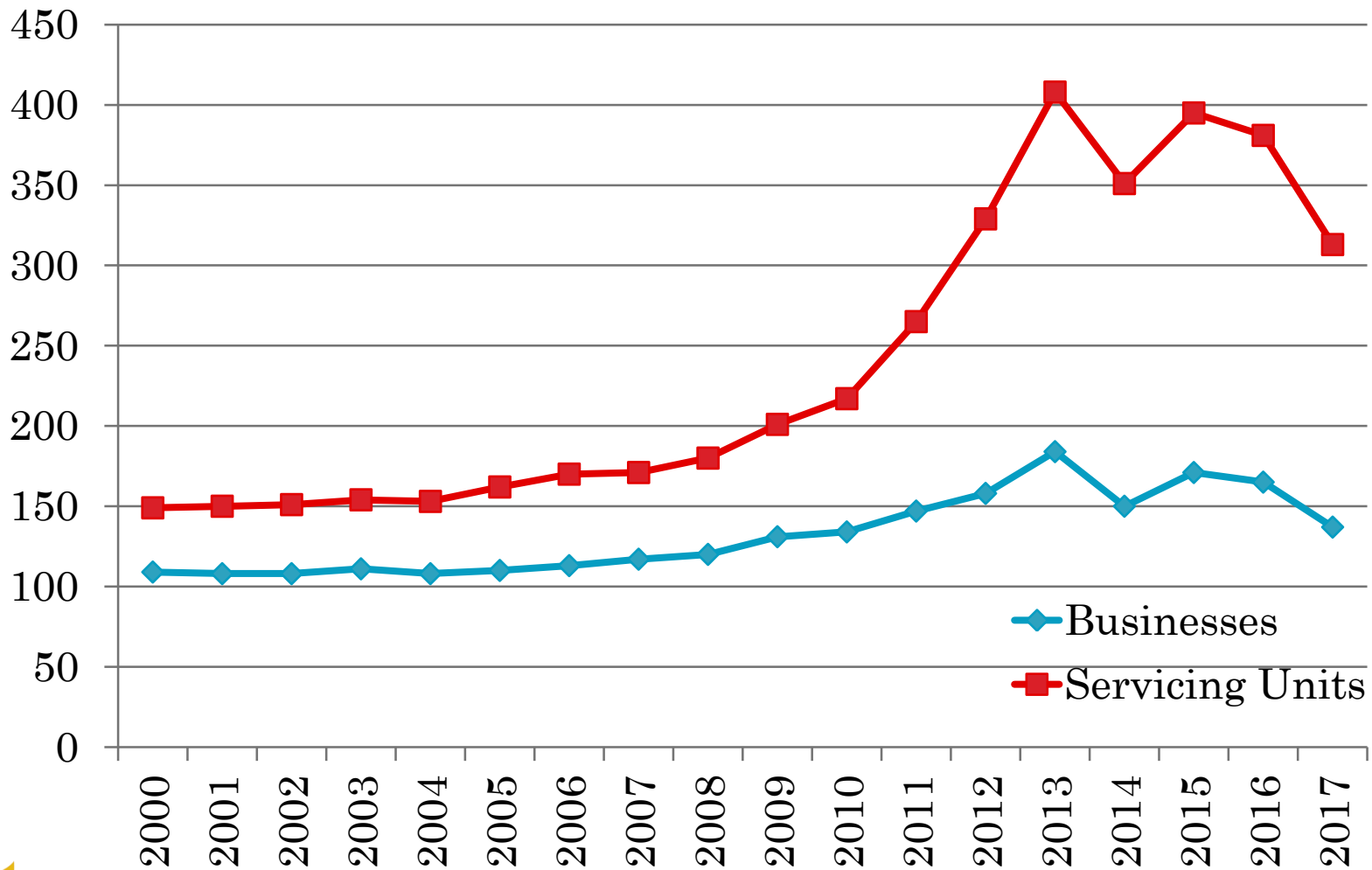
BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subdivision d of subsection 2 of section 61-28-04.1 of the North Dakota Century Code is amended and reenacted as follows:

- d. To establish reasonable fees for permitting septic system servicers, however the department may not establish or charge a permit or renewal fee for a plumber licensed under chapter 43-18 who operates no more than one servicing unit;



SEPTIC PUMPERS IN ND THROUGHOUT THE YEARS





NDCC 61-28-04.1

Septic System Servicing-Permit required-
Inspection Authority-Fees



NDCC 61-28-04.1(1)

- “A person engaging in the business of servicing septic system must have a permit issued by the department and must comply with the conditions imposed by the permit.”



NDCC 61-28-04.1(2)

- “The department shall administer and enforce a permitting program for septic system servicers and has the following powers and duties:
 - a. To require training of and to examine septic system servicers and their employees;
 - b. To establish standards and procedures for permitting of septic system servicers;
 - c. To issue permits to all applicants who satisfy the requirements for certification under this section and any rules under this section, to renew permits, and to suspend or revoke permits for cause after notice and opportunity for hearing;
 - d. To establish reasonable fees for permitting septic system servicers;
 - e. To establish criteria for sanitary management of septage, including standards for the transportation, treatment, and disposal of septage;
 - f. To require preapproval of land application sites;
 - g. To require recordkeeping and reporting;
 - h. To require spill reporting, corrective action, and evidence of financial responsibility; and
 - i. To adopt and enforce rules as necessary for implementation of this section.”



NDCC 61-28-04.1(2)

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- “The department shall administer and enforce a permitting program for septic system servicers and has the following powers and duties:
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NDCC 61-28-04.1(2)

- “The department shall administer and enforce a permitting program for septic system servicers and has the following powers and duties:
 - d. To establish reasonable fees for permitting septic system servicers, **however the department may not establish or charge a permit or renewal fee for a plumber licensed under chapter 43-18 who operates no more than one servicing unit;**



NDCC 61-28-04.1(2)

- “The department shall administer and enforce a permitting program for septic system servicers and has the following powers and duties:
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NDCC 61-28-04.1(2)

- “The department shall administer and enforce a permitting program for septic system servicers and has the following powers and duties:
 - f. To require preapproval of land application sites;



NDCC 61-28-04.1(2)

- “The department shall administer and enforce a permitting program for septic system servicers and has the following powers and duties:
 - g. To require recordkeeping and reporting;



NDCC 61-28-04.1(2)

- “The department shall administer and enforce a permitting program for septic system servicers and has the following powers and duties:
 - h. To require spill reporting, corrective action, and evidence of financial responsibility; and



NDCC 61-28-04.1(2)

- “The department shall administer and enforce a permitting program for septic system servicers and has the following powers and duties:
 - i. To adopt and enforce rules as necessary for implementation of this section.”



NDCC 61-28-04.1(3)

- “In adopting its rules the department shall apply different standards based on the size of the septic system servicer, on the type of service provided, quantity of septage handled, and number of units. The department may not require preapproval of land application sites for an application from a rural single-family residence on property owned or leased by the owner or lessee of the single-family residence.”



NDCC 61-28-04.1(4)

- “The department may inspect all septic system servicing activities including records, equipment, and disposal sites at all reasonable times to ensure compliance with the laws of this state. Nothing in this section removes the duty of any person to comply with applicable public health standards.”



NDCC 61-28-08(4)

- “Any person who violates this chapter, or any permit condition, rule, order, limitation, or other applicable requirement implementing this chapter, is subject to a civil penalty not to exceed twelve thousand five hundred dollars per day per violation.”





VIOLATIONS



PROHIBITIONS

- NDCC 61-28-06
- It shall be unlawful for any person:
 - a. To cause pollution to any waters of the state or to place or cause to be placed any wastes in a location where they are likely to cause pollution of any waters of the state; and
 - And to discharge any wastes into any waters of the state or to otherwise cause pollution, which reduces the quality of such waters below the water quality standards established therefor by the department.



PROCEDURE

- Follow up on a complaint or conduct a site inspection.
- Department will typically allow reasonable time to make a correction:
 - If correction is not made in time, proceed with administrative action.
 - If impacts are severe enough, administrative action may proceed even if corrected.



ADMINISTRATIVE ACTIONS

- Based on the degree of impacts:
Informal or Formal
- Informal
 - Issue a Letter of Apparent Non-Compliance (LOAN)
- Formal
 - Expedited Settlement Offer (ESO)
 - Expedited Settlement Agreement (ESA)
 - Notice of Violation (NOV)
 - Administrative Consent Agreement (ACA)
 - May or may not include a penalty.
 - Typically has additional stipulation (e.g. reporting requirements)



LOAN

- Informal

- Spells out the violations observed during the inspection.
 - No penalty associated with letter
 - Written warning/tracking for potential future formal enforcement



ESA/ESO

○ Formal-Administrative Enforcement

- Spells out the timeline and violations observed.
- One time offer
 - Respondent has 25 days to respond/sign
 - Penalties typically < \$10,000
 - If Respondent does not sign
 - Move forward with NOV



NOV

○ Formal-Administrative Enforcement

- Like the ESO/ESA, spells out the timeline and violations observed.
- Allows for Respondent to provide a response to the violations
 - Based upon the response and supporting information the Department may:
 - Move forward with the enforcement action (ACA)
 - Potentially drop some of the violations
 - Drop the case



ACA

- Formal-Administrative Enforcement (tied to NOV)
 - Sets forth the violations the Department will pursue
 - Typically contains a penalty
 - Usually > \$10,000
 - May contain additional stipulations
 - Example: additional sampling or reporting
 - Sets out timeline of when certain stipulations shall be achieved
 - Once all stipulations have been met, the action is considered complete.





EXAMPLES

Mon-Dak and Hurleys



HURLEY'S OILFIELD SERVICES



HURLEY'S OILFIELD SERVICES



MONDAK - STANLEY



MONDAK - STANLEY



MONDAK PORTABLES



UNKNOWN COMPLAINT – DIVIDE COUNTY

